BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
Petition for Rulemaking to Establish a Low Power AM Radio Service	)	RM-11287

To: Office of the Secretary
The Commission

JOINT COMMENTS OF THE NAMED STATE BROADCASTERS ASSOCIATIONS

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Dated: November 21, 2005

SUMMARY

The Named State Broadcasters Associations hereby state their strong opposition to the establishment of any low power AM radio service. As the Commission is aware, if the proposed low power AM service were authorized, it would inevitably create significant interference and technical problems in the already congested AM band. Because of the unique propagation characteristics of an AM signal, the AM broadcast service is highly vulnerable to interference from a wide array of potential sources of interference. The Commission's current interference requirements exist to protect the signals of authorized AM stations and ensure that the public is able to clearly receive a station's programming. This is particularly important given that the timely dissemination of emergency information saves lives and property which are put at risk by man-made and natural disasters. For that reason alone, it serves the best interests of every community for broadcasters nationwide to be extra vigilant in protecting their signal transmissions from existing and potential sources of interference.

The Petition should also be rejected in light of the Commission's own historical recognition that AM licensees face many unique technical difficulties not faced by licensees in other services. Beginning in 1987 the Commission undertook a comprehensive omnibus rulemaking proceeding and decided that the best way to resolve the problems inherent in the AM service was to implement new and revised AM technical standards, to migrate stations to a new segment in the AM expanded band, and to provide broadcasters with greater incentive and flexibility to reduce AM interference using non-technical methods. While these efforts are still ongoing and have produced mixed results given the interference difficulties still facing AM licensees, the Commission's hard work in trying to reduce interference and congestion in the AM band should not be undermined by the initiation of a rulemaking in this proceeding that would

potentially add hundreds of new low power AM band stations to the already crowded AM spectrum.

More recently, in its low power FM proceeding, the Commission explicitly determined not to authorize a low power AM service because such a service would only exacerbate the problems that exist in the AM band. As shown in the attached Engineering Exhibit, these concerns are not merely speculative. There are no technical standards that could be devised that would eliminate the serious additional interference issues the proposed new service would cause to both daytime and nighttime full power AM service. Simply put, because the technical underpinnings of the Petition are not valid, the Commission is compelled to dismiss or deny the Petition.

Even if Petition were able to overcome the considerable burden of demonstrating that a new low power AM service will not prove detrimental to the continued vitality and public service of the AM band – which it cannot do – there are numerous other reasons why the Commission should reject the Petition. If adopted, the Petition's proposals would (i) hinder the transition of analog radio service to digital radio by creating increased interference in the already cluttered AM band; (ii) raise serious Constitutional concerns by awarding licensees "bonus points" based on programming decisions; and (iii) violate the statutory auction mechanisms required by Section 309(j) by awarding commercial licenses by substituting a convoluted "bonus point" system for the mandatory bidding system. Finally, the Petition must be dismissed or denied because radio broadcasters, including AM licensees, have established a remarkable track record of community service and the Petitioners have not demonstrated anything to the contrary warranting a need for the proposed low power AM service.

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JOINT COMMENTS OF THE
NAMED STATE BROADCASTERS ASSOCIATIONS

The Alabama Broadcasters Association, Arizona Broadcasters Association, Arkansas Broadcasters Association, California Broadcasters Association, Colorado Broadcasters Association, Connecticut Broadcasters Association, Florida Association of Broadcasters, Hawaii Association of Broadcasters, Idaho State Broadcasters Association, Illinois Broadcasters Association, Indiana Broadcasters Association, Iowa Broadcasters Association, Kansas Association of Broadcasters, Kentucky Broadcasters Association, Louisiana Association of Broadcasters, Maine Association of Broadcasters, MD/DC/DE Broadcasters Association, Massachusetts Broadcasters Association, Michigan Association of Broadcasters, Minnesota Broadcasters Association, Missouri Broadcasters Association, Montana Broadcasters Association, Nebraska Broadcasters Association, Nevada Broadcasters Association, New Hampshire Association of Broadcasters, New Jersey Broadcasters Association, New Mexico Broadcasters Association, The New York State Broadcasters Association, Inc., North Dakota Broadcasters Association, Ohio Association of Broadcasters,

Okalahoma Association of Broadcasters, Oregon Association of Broadcasters, Pennsylvania Association of Broadcasters, Rhode Island Broadcasters Association, South Carolina Broadcasters Association, South Dakota Broadcasters Association, Tennessee Association of Broadcasters, Texas Association of Broadcasters, Utah Broadcasters Association, Vermont Association of Broadcasters, Virginia Association of Broadcasters, Washington State Association of Broadcasters, Wisconsin Broadcasters Association, and Wyoming Association of Broadcasters (collectively, the "State Associations"), by their attorneys and pursuant to Section 1.405 of the Commission's Rules, 47 C.F.R. § 1.405, hereby jointly submit comments in response to the Commission's *Public Notice* seeking comment on a Petition for Rulemaking to Establish a Low Power AM Radio Service ("Petition") filed on behalf of five parties in the above-referenced proceeding.[1] As discussed herein, the State Associations strongly oppose any rulemaking regarding the establishment of a low power AM radio service which would be extremely detrimental to full power AM licensees and the public interest.

Introduction

As the Commission is aware, the State Associations are chartered to help create and maintain a regulatory and economic environment that is maximally conducive to the growth of the free, over-the-air, locally based, radio and television broadcast industries in their respective states and territories. As such, the Associations have a direct interest in this matter since their collective memberships include thousands of full service AM broadcast stations.

The Commission has repeatedly stated that ensuring the effective and efficient use of spectrum is one of the fundamental responsibilities of the Commission.[2] If the proposed low

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1 *Public Notice*, Rep. No. 2735 (rel. Oct. 21, 2005).

2 *See, e.g.*, 47 U.S.C. § 309(j).

power AM service were authorized by the Commission, it would inevitably create significant interference and technical problems in the already congested AM band. Because of the unique propagation characteristics of an AM signal, the AM broadcast service is highly vulnerable to interference from a wide array of potential sources of interference. The Commission's current interference requirements exist to protect the signals of authorized AM stations and ensure that the public is able to clearly receive a station's programming. This is particularly important given that the timely dissemination of emergency information saves lives and property which are put at risk by man-made and natural disasters. For that reason alone, it serves the best interests of every community for broadcasters nationwide to be extra vigilant in protecting their signal transmissions from existing and potential sources of interference. In addition, the viability of a broadcast station depends on the provision of a strong, quality signal on which the public can rely. No over-the-air broadcast service is immune from this concern. The proposal for a new low power AM service is only the most recent attack on the integrity of the AM band, and therefore, the Petition should be promptly dismissed or denied by the Commission.

Discussion

I. THE CREATION OF A LOW POWER AM SERVICE WILL UNDERMINE SPECTRUM INTEGRITY BY CAUSING HARMFUL INTERFERENCE TO EXISTING AM STATIONS

A. The Petition must be rejected given the interference and congestion that already exist in the AM band

As the Commission is well aware, the considerable crowding in the AM band has forced many AM stations to develop elaborate directional antenna systems in an attempt to operate interference free in already congested service areas. Consequently, AM licensees often have complex service areas that differ during daytime and nighttime hours, disrupting

service to listeners. In addition, naturally occurring atmospheric noise results in a persistent source of degradation to the AM broadcast service that commonly limits the minimum usable field strength of AM stations. Additional degradation is created by interference resulting from the major congestion that exists in the AM band, which leads to an increase in adjacent and co-channel channel interference. This interference has increased significantly over time due to man-made noise resulting from electronic devices including, but not limited to, computers, devices including computer chips, aging power line infrastructure, RF lighting, and industrial equipment, causing further harm to the overall quality of the AM service. It is within this unstable environment that the Petition seeks to add additional clutter and noise in the form of low power AM stations.

In light of the Commission's historical recognition that AM licensees face many unique technical difficulties not faced by licensees in other services, the Commission should reject the Petition. As the Commission long ago recognized as part of an omnibus rulemaking proceeding in 1987, the need to improve the overall quality of the AM band is an essential Commission priority.[3] Based on this understanding, the Commission undertook a comprehensive review of "all AM technical and legal standards, rules and polices with the intent of making needed revisions and devising new approaches that would help achieve a significantly improved AM service."[4] The FCC's stated goal in these efforts was to reduce "congestion and interference in the AM band."[5] Subsequent to a lengthy series of rulemaking

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3 *See Review of the Technical Assignment Criteria for the AM Broadcast Service, Notice of Inquiry*, 2 FCC Rcd 5014 (1987); *NPRM*, 5 FCC Rcd 4381 (1990); *Report and Order*, 6 FCC Rcd 6273 (1991), *recon. granted in part and denied in part*, 8 FCC Rcd 3250 (1993).

4 *Id.*

5 *Id.*

proceedings that resulted in thousands of pages of public comments, the Commission decided that the best way to resolve the problems inherent in the AM service was to implement new and revised AM technical standards, to migrate stations to a new segment in the AM expanded band, and to provide broadcasters with greater incentive and flexibility to reduce AM interference using non-technical methods.[6] While these efforts are still ongoing and have produced mixed results given the interference difficulties still facing AM licensees, the Commission's hard work in trying to reduce interference and congestion in the AM band should not be undermined by the initiation of a rulemaking in this proceeding that would potentially add hundreds of new low power AM band stations to the already crowded AM spectrum.

The Commission itself has explicitly recognized that it should not authorize a low power AM service because such a service would only exacerbate the problems that exist in the AM band. Specifically, the Commission stated the following in its low power FM proceeding:

> We do not favor authorizing low power radio use in the AM radio band, as suggested by some commenters. The interference potential and present congestion in the AM band, where many stations currently experience significant interference and degraded reception, make it a poor choice for a new radio service. The propagation characteristics of AM signals could exacerbate the interference potential of low power stations, causing signals to extend long distances, particularly at night. Indeed, because of the congestion in the AM band and the serious problems of both daytime and nighttime interference affecting many stations, the Commission expanded the AM band in 1991 to provide for the migration of stations to the new segment of the band in order to reduce the congestion and resulting interference in the AM radio band. We believe that introducing low power stations into any part of the AM

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6 *Id.*

> spectrum would have a serious negative impact on our efforts to improve the quality of reception in this band.[7]

The Commission's decision in the LPFM proceeding to exclude low power AM stations in the AM band was not surprising given the significant technical differences that exist between the AM and FM bands.[8] The Petition is thus little more than a thinly-veiled effort to improperly seek reconsideration of the Commission's reasoned decision. Yet as the Commission already decided, forcing a new low power AM service into the existing AM band would inevitably create technical problems for existing AM licensees and would be harmful to station listeners who rely on their AM stations for important information such as news, weather, sports, traffic, severe weather warnings, and school closing information. The Commission has a responsibility to continue to ensure that the signals of existing full power stations are not harmed by the creation of the unnecessary new service proposed by the Petition. This is particularly true in light of the many challenges already faced by AM licensees today.

B. The Petition must be rejected because its engineering proposals are technically flawed.

The Petition does not provide *any* form of technical standards for its proposed low power AM service, perhaps because Petitioners realize that no such technical standards could be devised that would eliminate the serious additional interference issues the proposed new service would cause to both daytime and nighttime full power AM service. As noted, any imagined potential benefits that would arise from a new low power AM service are outweighed by the interference harms that such a service would cause to full power AM

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7 *In the Matter of Creation of a Low Power Radio Service*, 14 FCC Rcd 2471 at ¶ 17 (1999) (citations omitted).

8 As an example, FM band propagation is limited to line-of-sight while AM band travels through both skywave and groundwave.

stations. Indeed, the Petition proposes to adopt a "simplified allocation plan" with non-interference allegedly playing an integral role in any nascent low power AM service, but does not, because it cannot, show how full power operations would be adequately protected. Tellingly, if low power AM stations were forced to operate within the technical limits necessary to protect full service AM stations, low power AM stations would be unlikely to provide any meaningful service to the public as their coverage area would be extremely limited. These limits cannot be relaxed without severely compromising the service areas of full power AM stations. Accordingly, there is simply no reason to initiate the Petition's requested rulemaking proceeding.

As explained in more detail in the attached Engineering Statement prepared by Roy P. Stype of Carl E. Smith Consulting Engineers, the Petition's assumptions regarding technical and interference issues are unfounded and show a complete lack of understanding of AM propagation characteristics.[9] Specifically, the Exhibit demonstrates that the Petition is fatally defective because, among other reasons: 1) the proposal will impermissibly permit low power AM stations to operate at night at locations within the protected skywave contours of co-channel Class A stations; 2) even at locations not within the protected contours of full power AM stations, the proposed low power AM power levels in the vicinity of 100 watts will in most instances not provide necessary protection to full power operations; 3) the proposal fails to recognize that the limited range of lower power AM stations, coupled with interference in the AM band, will prevent low power AM stations from reaching any appreciable coverage areas; and 4) the technical and allocation criteria proposed in the Petition violate a number of international agreements, including the Region 2 Broadcast Agreement and Broadcast

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[9] *See* Exhibit 1.

Agreements between the United States and Mexico and the United States and Canada.[10] Since the technical underpinnings of the Petition are not valid, the Commission is compelled to dismiss or deny the Petition.

The importance of ensuring that full power AM stations can operate interference free was specifically highlighted recently during Hurricane Katrina. In the destructive storm's wake, evacuees and residents of New Orleans and surrounding areas relied heavily on AM radio station WWL to provide a wide nighttime skywave service area for emergency information.[11] Had a low power AM station been authorized to operate at night at a location within the protected skywave contour of WWL using the technical proposals suggested by the Petition, it would have had a potentially devastating effect with disastrous consequences because interference from such a low power AM facility would have precluded many listeners from receiving WWL's nighttime broadcast of emergency information.[12] As this example demonstrates, a communication interfered with can put people's lives in jeopardy. For that reason alone, the Commission must reject the Petition.

II. THE COMMISSION HAS BROAD DISCRETION TO DISMISS OR DENY THE PETITION AND SHOULD DO SO HERE BECAUSE THE PETITION IS FUNDAMENTALLY FLAWED AND INCONSISTENT WITH THE PUBLIC INTEREST

The Petition makes the erroneous suggestion that it would be a "contradiction" for the Commission to authorize low power FM service while not similarly authorizing low power

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10 Given the extensive geographic reach of the AM band, AM radio, in particular, is coordinated on a regional basis. The United States must coordinate AM radio with countries in Region 1 - Northern Asia, including Russia; in Region 2 - North, Central, and South America in Region 3 - Southeast Asia, Australia, and Oceania.

11 *See* Exhibit 1.

12 *Id.*

AM service.[13] This statement could not be further from the truth given the considerable differences that exist between the AM and FM services and the interference potential and present congestion that already exists in the AM band. In any case, the Commission is not required to initiate the rulemaking requested by the Petition because the Administrative Procedure Act ("APA")[14] and the Commission's Rules provide the FCC with considerable discretion to deny a petition. The statutory right to petition the Commission for a rulemaking is found in the APA, which states that "[e]ach agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule."[15] The Commission's Rules place the burden on the Petitioner to demonstrate the need for a rulemaking to be initiated and contemplate that a petition will be denied unless that burden is met. According to Section 1.407 of the Commission's Rules:

> If the Commission determines that the petition discloses sufficient reasons in support of the action requested to justify the institution of a rulemaking proceeding, and notice and public procedure thereon are required or deemed desirable by the Commission, an appropriate notice of proposed rulemaking will be issued. *In all other cases the petition for rulemaking will be denied and the petitioner will be notified of the Commission actions and the grounds therefore.*[16]

In the instant case, the burden on the Petitioner is considerable because AM stations already experience significant interference and degraded reception which, by any objective review, will only be exacerbated by the low power AM service proposed by the Petition. In short, the creation of the proposed new service will prove detrimental to the continued vitality and

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13 Petition at 5.

14 *See* 5 U.S.C.§ 551, *et seq.*

15 5 U.S.C. § 553(e).

16 47 C.F.R. § 1.407 (emphasis added).

public service of the AM band and therefore is well within the Commission's discretion to dismiss or deny the Petition.

Even if this were not the case, there are numerous other reasons why the Commission should use its discretion wisely and reject the Petition's proposals as contrary to the public interest. For example, at a time when the Commission should be ensuring the smooth transition of its analog radio service to digital radio, the idea of forcing a new low power service into the cluttered AM band would be particularly ill-conceived. As the Commission is fully aware, AM and FM broadcasters have commenced digital operations on an interim basis using the digital radio systems developed by iBquity Digital Corporation.[17] The potential addition of hundreds of new stations, or implementing the Petition's proposed changes in AM interference criteria, would further complicate the AM analog transition to digital service. The continued progress toward digital radio and improved service to the public should take precedence over the proposed new service, particularly given the many aforementioned interference complexities associated with the AM band.

In addition, the Petition seeks to have the Commission turn a blind eye to Commission policy and the First Amendment by suggesting that the Commission adopt a system of awarding "bonus points" to potential low power AM licensees based upon how "worthwhile" their programming will be in the future.[18] The Petition's suggestion not only raises First Amendment concerns, it also ignores the fact that the FCC does not involve itself in assessing

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17 Unlike FM stations, AM stations must restrict digital radio operation to daytime hours. An AM station with authority to operate between 6 a.m. and local sunrise (pre-sunrise hours) and between local sunset and 6 p.m. (post-sunset hours) may operate its hybrid IBOC system during those periods. *See* 47 CFR §73.99.

18 Petition at 5.

the quantity or quality of particular programming aired by its licensees. As the Commission has stated, "[t]he Commission's role in overseeing program content is very limited."[19] Similarly, Courts have long held that "broadcasters are entitled under the First Amendment to exercise the widest journalistic freedom consistent with their public duties."[20] Thus, the Petition's proposal to award licensees "bonus points" based on programming decisions would be contrary to Commission policy and raises serious Constitutional concerns.

Moreover, the Petition's proposal to have low power AM stations operate commercially is similarly flawed. As an initial matter, Section 309(j) of the Communications Act of 1934 compels the Commission to award commercial licenses based solely on a competitive bidding mechanism and not on the convoluted "bonus point" system that is proposed by the Petition, which ignores the statutory auction mechanisms required by Section 309(j). In the Balanced Budget Act, Congress revised the Commission's auction authority, requiring the Commission, subject to an obligation in the public interest to avoid mutual exclusivity (Section 309(j)(6)(E)), to use competitive bidding to resolve mutually exclusive applications for initial licenses or permits, unless one of three exemptions provided in the statute applies which is not the case here.[21] As a consequence, the Commission cannot adopt the Petition's commercial point system because it lacks the statutory authority to do so.

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19 *See In re Complaints Against Various Television Licensees Concerning Their February 1, 2004, Broadcast of Super Bowl XXXVIII Halftime Show*, File No. EB-04-IH-0011, Notice of Apparent Liability for Forfeiture, at ¶ 7 (2004).

20 *FCC v. League of Women Voters*, 468 U.S. 364, 379 (1984) (internal citations omitted).

21 In the Omnibus Budget Reconciliation Act of 1993, Congress authorized the Commission to award licenses for use spectrum through competitive bidding where mutually exclusive applications were accepted for filing. The Commission was also

Finally, the Petition simply makes no showing whatsoever to justify the creation of a new low power AM service which threatens to undermine the valuable service currently being provided by full power AM stations. In reality, AM broadcasters are continuously working hard to meet the needs of their communities in an admirable fashion, rendering the proposal unnecessary. Simply put, radio broadcasters, including AM licensees, have established a remarkable track record of community involvement and public interest benefits and the Petitioners have not demonstrated anything to the contrary warranting a need for the proposed low power AM service.

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required to find that the use of competitive bidding would promote the public interest objectives described in Section 309(j)(3) of the Communications Act. Section 309(j) exempts from the competitive bidding process licenses and construction permits only for: (1) public safety radio services, (2) licenses or permits for digital television service given to existing terrestrial broadcast licensees to replace their analog television service licenses; and (3) noncommercial educational broadcast stations and public broadcast stations. *See* Balanced Budget Act of 1997 § 3002(a)(1), Pub. L. No. 105-33, 111 Stat. 251, codified at 47 U.S.C. § 309(j).

Conclusion

Based on the foregoing, the State Associations strongly urge the Commission to dismiss or deny the Petition.

Respectfully submitted,

NAMED STATE BROADCASTERS ASSOCIATIONS

By: /s/

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Dated: November 21, 2005

EXHIBIT 1

ENGINEERING STATEMENT IN SUPPORT OF JOINT COMMENTS OF THE NAMED STATE BROADCASTERS ASSOCIATIONS

RM-11287

(Petition for Rulemaking - Low Power AM Radio Service)

November 18, 2005

CARL E. SMITH CONSULTING ENGINEERS

2324 N. CLEVE-MASS RD., BOX 807 330/659-4440 FAX: 330/659-9234 BATH, OHIO 44210-0807

ENGINEERING AFFIDAVIT

State of Ohio)
) ss:
County of Summit)

Roy P. Stype, III, being duly sworn, deposes and states that he is a graduate Electrical Engineer, a qualified and experienced Communications Consulting Engineer whose works are a matter of record with the Federal Communications Commission and that he is a member of the Firm of "Carl E. Smith Consulting Engineers" located at 2324 North Cleveland-Massillon Road in the Township of Bath, County of Summit, State of Ohio, and that the Firm has been retained to prepare the attached "Engineering Statement in Support of Joint Comments of the Named State Broadcasters Associations - RM-11287 (Petition for Rulemaking - Low Power AM Radio Service)."

The deponent states that the Exhibit was prepared by him or under his direction and is true of his own knowledge, except as to statements made on information and belief and as to such statements, he believes them to be true.

Roy P. Stype, III

Subscribed and sworn to before me on **November 18, 2005.**

Notary Public

/SEAL/

GAIL M. ELROD, Notary Public
Residence - Summit County
State Wide Jurisdiction, Ohio
My Commission Expires Sept. 24, 2007

ENGINEERING STATEMENT

This engineering statement is prepared in support of comments opposing the *Petition for Rulemaking* (RM-11287) filed jointly by five petitioners requesting the creation of a new Low Power AM ("LPAM") Radio Service. In reviewing the technical portion of the proposals outlined in this *Petition for Rulemaking*, it is obvious that the petitioners have not given adequate consideration to the propagation characteristics of the medium wave AM band. This is clearly illustrated by the petitioners stated goal of a simplified allocation plan to simplify administration and a uniform power level during both daytime and nighttime hours, which shows a lack of understanding of the propagation characteristics in the medium wave band and how these propagation characteristics differ with frequency, soil conductivity, and between daytime and nighttime hours. The petitioners also fail to provide any consideration to the fact that the existing AM allocation standards, both domestic and international, provide different degrees of protection to different classes of stations during both daytime and nighttime hours.

This rulemaking proposal has totally ignored the fact that Class A AM stations, both domestic and international, are protected during nighttime hours over the large geographic areas encompassed by their secondary nighttime skywave contours. The proposal advanced in this petition would permit LPAM stations to operate at night at locations within the protected skywave contour of a co-channel Class A station, something which is not permitted for a regular AM broadcast station, which would obviously destroy the wide area nighttime service presently provided by these Class A stations. Such a situation would have been catastrophic in the wake of Hurricane Katrina where the nighttime skywave service area of Class A station WWL was heavily relied upon to

provide area wide service to the disaster area and displaced evacuees who had relocated outside the disaster area.

As shown by the data contained in the FCC's Consolidated Database System ("CDBS") and based on this firm's extensive experience with nighttime allocations under these revised rules, very few full service AM stations are capable of operating nondirectionally at night with a power of approximately 100 watts without creating substantial interference to existing primary nighttime stations. There are many full power AM stations which would like to operate nondirectionally at night with a power level of approximately 100 watts. The nighttime skywave propagation characteristics of the medium wave band, however, make the use of such power levels impossible for most AM stations without using a directional antenna to provide the required protection to other stations requiring protection consideration during nighttime hours. Although the FCC Rules were modified over a decade ago to permit low power secondary nighttime operation by existing AM stations, a review of the CDBS shows that very few of the stations which have taken advantage of these modified rules to implement secondary nondirectional nighttime operation have been able to operate at nondirectional power levels exceeding 20 watts during nighttime hours. In fact, the CDBS shows that there are several such stations which operate at night with power levels of five watts or less.

Even on frequencies where such low power nighttime operation would be possible, however, it is important to note that the phenomenon of skywave interference is a two way street. Even if an LPAM applicant could locate a channel on which it could operate at night with a reasonable power level without causing interference to other stations, the skywave interference from the incumbent high power stations on the chan-

nel would render the nighttime service area of such a station so small as to provide very little, if anything, in the way of meaningful nighttime service to its intended audience. In many cases, such skywave interference could very easily limit the nighttime service area of such an LPAM station to no more than a few city blocks, or less.

Daytime operation in the AM band at the low power levels proposed in this petition would also be extremely problematic due to the high levels of atmospheric and man made noise in the medium wave band and the susceptibility of an amplitude modulated signal to interference from such noise. This situation became obvious approximately 40 years ago when such noise problems made it necessary to increase the daytime power of Class IV (now Class C) AM stations from 250 watts to 1000 watts to overcome such noise problems. This problem has only been aggravated over the intervening years with the proliferation of consumer electronic devices, RF lighting equipment, and industrial equipment which have substantially increased the noise floor in the medium wave AM band since that time. In many areas, the noise levels have now increased to the point that many stations operating at a power level of 1000 watts or less during daytime hours fail to provide a sufficient signal strength to overcome this noise level in order to provide service to their target audiences. This is a particular problem as it relates to obtaining the required building penetration to provide service to the typical inexpensive desktop radios often used for indoor listening. (There are cases where a signal level of 5 mV/m, or even greater, is totally inadequate to provide a usable signal to medium sized urbanized areas, and signal levels as high as 25 mV/m have often been found to be inadequate to provide a usable signal in heavily industrialized areas, especially on frequencies lower in the band where environmental noise is substantially higher.)

It is obvious that the technical and allocation criteria proposed in this petition are completely unworkable and would totally undermine the strong efforts made by the FCC between 1987 and 1991 in MM Docket 87-267 and several related rulemaking proceedings to modify the AM allocation and protection criteria to attempt to reduce interference and eliminate "clutter" in the medium wave AM band. The increased interference which would result from the implementation of the proposed LPAM service would also conflict with the ongoing implementation of hybrid digital operation in the AM band, which is the first step in the process of an ultimate future conversion to a totally digital AM radio service. Furthermore, this increased interference would also effectively eliminate much of the nighttime service provided by existing incumbent analog stations in the band, while the analog Low Power AM stations which would be created would not be capable of operating at sufficient power levels to permit them to provide service to a large enough area to provide any sort of meaningful service during either daytime or nighttime hours.

Finally, the technical and allocation criteria proposed in this petition violate several existing international agreements to which the United States is a signatory, particularly those associated with the nighttime and critical hours protection requirements to stations in other countries which are signatory to these agreements.

In summary, the propagation characteristics in the medium wave band, as well as the requirement to provide adequate protection consideration to incumbent AM stations, both domestic and foreign, while also protecting the conversion ot the AM service to digital operation, simply make the proposed LPAM service impractical and totally in-

consistent with the FCC's previous actions in MM Docket 87-267 and its related proceedings to attempt to improve the AM service.

CERTIFICATE OF SERVICE

I, Cherie L. Mills, a secretary with the law firm of Pillsbury Winthrop Shaw Pittman LLP, hereby certify that a copy of the foregoing "JOINT COMMENTS OF THE NAMED STATE BROADCASTERS ASSOCIATIONS" was served via U.S. mail on this 21st day of November 2005, to the following:

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